

UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO

IN RE:

NELSON VEGA LUGO
WILDA A. SANTIAGO CRUZ

DEBTOR

CASE NO. 18-01789-MAG

CHAPTER 13

TRUSTEE'S MOTION TO DISMISS

TO THE HONORABLE COURT:

Comes now Alejandro Oliveras Rivera, Chapter 13 Trustee and respectfully states and prays:

1. Debtor(s) confirmed/approved plan provides for tendering to trustee the tax refunds for the benefit of creditors. Based on the above said, on April 28, 2022 Trustee filed a Motion on non-delivery of tax returns, requesting copies of the Income Tax Returns filed for taxable year(s) **2017, 2018, 2019, 2020 & 2021 (Dkt.43)**.

2. This Honorable Court granted Trustee's motion on May 17, 2022 (**Dkt.44**). As of this date, copy of the tax returns has not been submitted to the Trustee.

3. The binding effect of the plan comes into operation by virtue of Bankruptcy Code Section 1327(a) of the Bankruptcy Code, and it cannot be disregarded. In fact, in the Opinion of Honorable Judge Enrique S. Lamoutte, *In re Galindez*, 2014 WL 3767412 (Bankr.D.P.R. July 2014), citing chapter 13 bankruptcy treatise¹, reasoned as to importance of the Code's binding effect provision:

¹ Keith M. Lundin & William H. Brown, *Chapter 13 Bankruptcy*, 4th Edition, § 229.1, at ¶ {1}, Sec. Rev. Oct. 8, 2010, 222.Ch13online.com.

"Section 1327(a) is a **strong statement**: The terms of a confirmed plan are **legal obligations of the debtor** and all creditors without regard to whether the plan provides for the creditor's claim and without regard to whether the creditor participated in the confirmation process." (Bold supplied).

The Court also relied in the following pronouncement by the First Circuit bankruptcy appellate panel on the binding effect of the plan:

"Plan confirmation is a final order, with res judicata effect, and is imbued with the strong policy of favoring finality." Factors Funding Co. v. Fili (In re Fili), 257 B.R. 370, 373 (B.A.P. 1ST Cir.2001).

4. In further support of the request for the tax returns is the fact that per Schedules I and J filed, debtor is employed. Moreover, debtor has not submitted documentation showing that she did not have to file tax returns.

5. Debtor(s) failure to devote the tax returns constitutes a material default with respect to the terms of the confirmed/approved plan and is cause to dismiss the instant case. See 11 U.S.C. §1307(c)(6).

6. Debtor(s) is/are not member(s) of the U.S. Armed Forces, the Coast Guard, the Public Health Service or the National Oceanic and Atmospheric Administration, as evidenced by the Certificate issued by the U.S. Department of Defense, copy of which is attached only to the original of this motion and movant's copy.

WHEREFORE, for the reasons stated above it is respectfully

requested from the Court to enter an order dismissing the present case for cause pursuant to 11 U.S.C §1307(c) (6) .

NOTICE- Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the clerk's office of the United States Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the court, the interest of justice requires otherwise.

CERTIFICATE OF SERVICE: I hereby certify that on this same date I electronically filed the above document with the Clerk of the Court using the CM/ECF System which sent a notification of such filing to all those who in this case have registered for receipt of notice by electronic mail. I further certify that I have served to the U.S. Trustee, ustpreregion21.hr.ecf@usdoj.gov and by depositing true and exact copies thereof in the United States Mail, postage prepaid, to the non CM/ECF participants: debtor(s) the mailing address of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this, June 9th, 2022.

/s/ Alejandro Oliveras Rivera
ALEJANDRO OLIVERAS RIVERA

CHAPTER 13 TRUSTEE
P.O. Box 9024062
San Juan, PR 00902-4062
Tel. 977-3500 Fax 977-3521
CA-SR



Status Report Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-0740
Birth Date:
Last Name: VEGA LUGO
First Name: NELSON
Middle Name:
Status As Of: Jun-08-2022
Certificate ID: 9ZMMP8Z786CG8Q7

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento, Director
Department of Defense - Manpower Data Center
400 Gigling Rd.
Seaside, CA 93955

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 3901 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q35) via this URL: <https://scra.dmdc.osd.mil/scra/#/faqs>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 3921(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.



Status Report Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-9909
Birth Date:
Last Name: SANTIAGO CRUZ
First Name: WILDA
Middle Name: AIMET
Status As Of: Jun-08-2022
Certificate ID: KHK2YSX303FNX5T

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
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